

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WEIFANG TENG YI JEWELRY TRADING CO.,)	
LTD.,)	
)	18 C 4651
Plaintiff,)	
)	Judge Gary Feinerman
vs.)	
)	
INTUII LLC, JENS SORENSEN, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Motion hearing held. For the reasons set forth below, Defendant Intuii and Jens Sorensen's motion to lift TRO [30] is granted in part and entered and continued in part. The TRO is lifted immediately as to Defendant Intuii LLC, doing business as diaperdisco, Jens Sorensen, and chocochipcupcake. The TRO shall have no force or effect on any non-parties, including PayPal, in privity with Intuii LLC, Jens Sorensen, or with the eBay and Bonanza stores under which they operate. Defendants' request for damages is entered and continued. By noon on 8/22/2018, Plaintiff shall file a memorandum explaining what pre-filing research it performed into the location of Defendants Intuii LLC and Jens Sorensen and into whether they sold counterfeit ULOVEIDO products. Status hearing set for 8/23/2018 at 9:45 a.m.

STATEMENT

Plaintiff Weifang Tengyi Jewelry Trading Co., Ltd. obtained a TRO in this trademark case. Doc. 16. The court granted the TRO based on Weifang's representation that Defendants are foreign Internet businesses that have sold counterfeit ULOVEIDO products. Doc. 13 at 2-3, 7-8. That representation was doubly incorrect as to Defendants Intuii LLC and Jens Sorensen (together, "Intuii"), who sell genuine ULOVEIDO products from their Internet business in California. Docs. 32-33. So, at least as to Intuii, the TRO was obtained under incorrect pretenses.

Weifang does not deny that Intuii is based on California and sells genuine ULOVEIDO products. Doc. 39. But Weifang opposes lifting the TRO on the ground that Intuii offers ULOVEIDO products for sale before it actually acquires those products. There are two flaws with that argument. First, it is not the legal and factual basis on which Weifang obtained the TRO. Second, as Weifang's counsel admitted at the 8/17/2018 hearing, Weifang has no legal authority for the proposition that a reseller violates the trademark laws by offering a trademarked product for sale before acquiring that product. Thus, Weifang has no authority to support its view that what Intuii has actually done (which is far different from what Weifang initially alleged that Intuii did) is actually illegal.

Given this, Weifang has not established the requisite likelihood of succeeding on the merits to support a TRO against Intuii. And given Intuii's commitment not to sell ULOVEIDO products, the balance of harms tips against a TRO as well.

August 17, 2018

/s/ Gary Feinerman
United States District Judge